

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 675

Case No. 90-7

(Parking Lots in SP Districts)

September 13, 1990

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on June 21, 1990. At that hearing session, the Zoning Commission considered a proposal to amend the parking lots in the SP District provisions of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, pursuant to 11 DCMR 102. The public hearing was conducted in accordance with the provisions of 11 DCMR 3021.

By Z.C. Order No. 235 dated September 14, 1978, the Zoning Commission adopted amendments to the Zoning Regulations that included comprehensive revisions to the SP Districts. The amendments to the Regulations regarding parking were changed to sharply reduce surface parking lots, and also to severely curtail commuter parking. New surface parking lots were not permitted unless they were accessory to uses permitted in the SP District. Accessory parking garages continued to be permitted. Parking garages as principal uses could be provided, if approved by the Board of Zoning Adjustment, (BZA), only if they did not serve all-day commuter parking. All these changes were designed to respond to the City's Goals and Policies, particularly as to air quality, transportation and land use.

It was the anticipation of the Zoning Commission that existing parking lots in SP Districts would be phased-out over the four year period provided, and that new mixed-use or residential development would occur on those sites. Consequently, the Zoning Commission adopted the following amendments to the Zoning Regulations:

"4101.41 Parking lot, in existence on October 5, 1978 under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed four years from the date that the present Certificate of Occupancy expires provided that:"

By Z.C. Order No. 394 dated April 18, 1983, the Zoning Commission extended the effect of Paragraph 4101.41 by two additional years; that is, to read "six years", in lieu of "four years".

The Commission determined that significant new mixed-use or residential development had not occurred since the adoption of Z.C. Order No. 235. The state of the economy and the condition of the financial market had resulted in little new development activity in the SP areas. Further, delays had occurred in the construction scheduling of the Metrorail system, resulting in less effective transit service being in place than the Commission anticipated in 1978. The assumptions underlying the four-year phase-out period had thus changed.

By Z.C. Order No. 475 dated November 4, 1985, the Zoning Commission, for the second time, extended the effect of Paragraph 4101.41 of the Zoning Regulations by four additional years; that is, to read "ten years", in lieu of "six years".

The Zoning Commission concurred with the intent of the recommendations of the Office of Planning (OP) and the Department of Public Works (DPW). The Commission believed that ten years was not excessive and that continuing the policy would continue to place some pressure for redevelopment on some of the parking lots. At the end of the ten years, rezoning and redevelopment should have resolved most of the issues.

The Commission further believed that much of the demand for parking lot uses would diminish due to increased Metrorail transit availability and the replacement of many of the surface parking spaces by underground parking. In light of the pace at which development was taking place in the downtown, it appeared that the extension of the expiration date of the SP parking lots was needed in order to assure a more balanced transition period between the existing supply of surface parking in the downtown and the future availability of garage parking as development occurred.

By memorandum dated March 23, 1990, the Executive Director of the Zoning Secretariat, on behalf of the Board of Zoning Adjustment (BZA), requested the Zoning Commission to again consider amendments to the Zoning Regulations in regards to the treatment of parking lots in SP Districts. The memorandum indicated that the certificates of occupancy for many parking lots in SP Districts were expiring and many applications to continue the use of those parking lots were pending BZA review for use variances.

On April 16, 1990, at its regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing for Case No. 90-7.

The District of Columbia Office of Planning, by memorandum dated June 18, 1990 and by testimony presented at the public hearing, supported a ten year extension of time, if the Zoning Commission determined after the hearing process that there was sufficient basis to extend the time period once again.

Advisory Neighborhood Commission - 2B, by letter dated June 19, 1990, opposed the ten-year extension of time, and in fact supported a reduction of time to "five years". ANC-2B did not give reasons for its opposition.

Four persons testified at the public hearing in support of the extension and/or in support of eliminating the prohibition of all-day commuter parking lots in SP Districts. Two letters were also received and concurred with the above-mentioned position.

The Commission does not concur with the position of ANC-2B, but does concur, in part, with the position of the OP and persons in support.

The Commission notes its commitment for the eventual reduction and elimination of the majority of surface parking lots in SP Districts. Because of that commitment, the Commission believes that the position of some of the affected property owners to support the establishment of all-day commuter parking lots is contrary to that commitment and is inappropriate.

The Commission believes that it is appropriate to allow parking lots that were already in existence in 1978 to remain in operation for a definite period into the future. To leave the regulations as they are, would force property to remain vacant or would require applicants to seek use variances. While the BZA is capable of processing and deciding use variance applications, the standards against which such applications must be measured are very rigorous.

The Commission believes that BZA applicants should not have to meet that test, when the development assumptions that were the basis of the extension period are no longer valid.

The Commission further believes that to preclude interim parking use of these existing unimproved properties, may well result in the properties being left vacant and unattended, and potentially adversely affect the areas in which they are located by creating eye-sores and crime havens.

A notice of proposed rulemaking was published in the D.C. Register on August 3, 1990 (37 DCR 5112). No comments or responses were received as a result of that publication.

The Zoning Commission believes that the proposed amendment to the Zoning Regulations is in the best interests of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

The proposed amendment to the Zoning Regulations was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. NCPC, by report dated September 10, 1990, reported that although it finds that the provisions in general would not adversely affect the federal establishment, application of the text to perpetuate parking lot uses along designated special streets and places (as identified in the Comprehensive Plan for the National Capital) may in certain cases be adverse to the federal interest and inconsistent with the Comprehensive Plan. As time extension applications are filed, NCPC will advise BZA as to impact on the federal interest.

NCPC requests that BZA refer parking lot extension applications to NCPC for Federal review and comment.

On September 13, 1990, at its regular monthly meeting, the Zoning Commission concurred with the request of NCPC, and determined that it would require that all applications to extend parking lots in SP Districts be referred to NCPC for review and comment. The Zoning Commission has also determined that this amendment to the proposed rulemaking is of a procedural nature and is not substantive as to require publication of a new notice of proposed rulemaking.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL to modify and amend sub-section 505.1 (formerly Paragraph 4101.41) of the Zoning Regulations, to delete the word "ten" and replace it with the word "twenty", and to add sub-section 505.3 to require a Federal impact review by NCPC. The specific amendments to Title 11, DCMR, are as follows:

1. Amend sub-section 505.1 to read as follows:

505.1 A parking lot in existence on October 5, 1978, under approval by the Board of Zoning Adjustment, may be permitted by the Board to continue in existence for a period not to exceed twenty (20) years from the date of expiration of the Certificate of Occupancy in effect on October 5, 1978, if approved by the

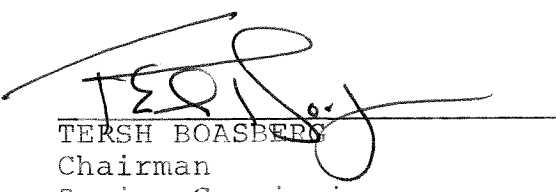
Board of Zoning Adjustment in accordance with the conditions specified in Section 3108 of Chapter 31 of this title, subject to the provisions of this Section.

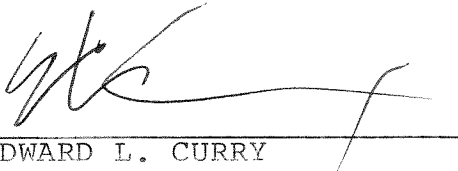
2. Create a new sub-section 505.3 to read as follows:  
  
505.3. Each application shall be referred to the National Capital Planning Commission for review and comment.
3. Renumber existing sub-sections 505.3 through 505.6 to become the new sub-sections 505.4 through 505.7.

Vote of the Commission taken at the public meeting on July 9, 1990: 4-0 (Lloyd D. Smith, Maybelle Taylor Bennett, John G. Parsons and Tersh Boasberg, to approve a ten-year extension - William L. Ensign, not voting not having participated in the case).

This order was adopted by the Zoning Commission at the public meeting on September 13, 1990 by a vote of 4-0 (Tersh Boasberg, Maybelle Taylor Bennett and Lloyd D. Smith, to adopt as amended, and John G. Parsons, to adopt as recorded later in the meeting - William L. Ensign, not voting not having participated in the case).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on OCT - 5 1990.

  
TERSH BOASBERG  
Chairman  
Zoning Commission

  
EDWARD L. CURRY  
Executive Director  
Zoning Secretariat